

1 Evan J. Smith, Esquire (SBN 242352)
2 Ryan P. Cardona, Esquire (SBN 302113)
3 BRODSKY & SMITH
4 9595 Wilshire Blvd., Ste. 900
5 Beverly Hills, CA 90212
6 Telephone: (877) 534-2590
7 Facsimile: (310) 247-0160

8 *Attorneys for Plaintiff*

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

02/24/2023
Clerk of the Court
BY: ANGELICA SUNGA
Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SAN FRANCISCO

11 PRECILA BALABBO,

12 Plaintiff,

13 vs.

14 JO-ANN STORES, LLC.,

15 Defendant.

Case No.: CGC-22-603311

**FIRST AMENDED COMPLAINT FOR CIVIL
PENALTIES AND INJUNCTIVE RELIEF**

**(Violation of Health & Safety Code § 25249.5 et
seq.)**

16 Plaintiff Precila Balabbo (“Plaintiff”), by and through her attorneys, alleges the following
17 cause of action in the public interest of the citizens of the State of California.

18 **BACKGROUND OF THE CASE**

19 1. Plaintiff brings this representative action on behalf of all California citizens to
20 enforce relevant portions of Safe Drinking Water and Toxic Enforcement Act of 1986, codified at
21 the Health and Safety Code § 25249.5 et seq (“Proposition 65”), which reads, in relevant part,
22 “[n]o person in the course of doing business shall knowingly and intentionally expose any
23 individual to a chemical known to the state to cause cancer or reproductive toxicity without first
24 giving clear and reasonable warning to such individual ...”. Health & Safety Code § 25249.6.

25 2. This First Amended Complaint is a representative action brought by Plaintiff in the
26 public interest of the citizens of the State of California to enforce the People’s right to be informed
27 of the health hazards caused by exposure to di(2-ethylhexyl) phthalate (DEHP), a toxic chemical
28 found in products sold and/or distributed by defendant Jo-Ann Stores, LLC (“Jo-Ann” or
“Defendant”) in California.

1 3. DEHP is a harmful chemical known to the State of California to cause cancer and
2 reproductive toxicity. On January 1, 1988, the State of California listed DEHP as a chemical known
3 to the State to cause cancer and it has come under the purview of Proposition 65 regulations since
4 that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).
5 On October 24, 2003, the State of California listed DEHP as a chemical known to cause
6 reproductive toxicity.

7 4. Proposition 65 requires all businesses with ten (10) or more employees that operate
8 within California or sell products therein to comply with Proposition 65 regulations. Included in
9 such regulations is the requirement that businesses must label any product containing a Proposition
10 65-listed chemical that will create an exposure above safe harbor levels with a “clear and
11 reasonable” warning before “knowingly and intentionally” exposing any person to any such listed
12 chemical.

13 5. Proposition 65 allows for civil penalties of up to \$2,500.00 per day per violation
14 for up to 365 days to be imposed upon defendants in a civil action for violations of Proposition 65.
15 Health & Safety Code § 25249.7(b). Proposition 65 also allows for any court of competent
16 jurisdiction to enjoin the actions of a defendant which “violate or threaten to violate” the statute.
17 Health & Safety Code § 25249.7.

18 6. Plaintiff alleges that Defendant distributes, sells and/or offers for sale in California
19 (a) Webster Fine Art photo album SNAP INS, (b) Webster Fine Art photo album COVER
20 CADDY’s, and (c) hildie & jo Jump Ring Mandrels (collectively, the “Products”) without a
21 requisite exposure warning that the Products expose persons to DEHP.

22 7. Defendant’s failure to warn consumers and other individuals in California of the
23 health hazards associated with exposure to DEHP in conjunction with the sale and/or distribution
24 of the Products is a violation of Proposition 65 and subjects Defendant to the enjoinder and civil
25 penalties described herein.

26 8. Plaintiff seeks civil penalties against Defendant for its violations of Proposition 65
27 in accordance with Health and Safety Code § 25249.7(b).

1 9. Plaintiff also seeks injunctive relief, preliminarily and permanently requiring
2 Defendant to provide purchasers or users of the Products with required warnings related to the
3 dangers and health hazards associated with exposure to the DEHP, pursuant to Health and Safety
4 Code § 25249.7(a).

5 10. Plaintiff further seeks a reasonable award of attorney's fees and costs.

6 **PARTIES**

7 11. Plaintiff is a citizen of the State of California acting in the interest of the general
8 public to promote awareness of exposures to toxic chemicals in products sold in California and to
9 improve human health by reducing hazardous substances contained in such items. She brings this
10 action in the public interest pursuant to Health and Safety Code § 25249.7(d).

11 12. Defendant Jo-Ann, through its business, effectively imports, distributes, sells,
12 and/or offers the Products for sale or use in the State of California, or it implies by its conduct that
13 it imports, distributes, sells, and/or offers the Products for sale or use in the State of California.
14 Plaintiff alleges that defendant Jo-Ann is a "person" in the course of doing business within the
15 meaning of Health & Safety Code sections 25249.6 and 25249.11.

16 **VENUE AND JURISDICTION**

17 13. Venue is proper in the County of San Francisco because one or more of the
18 instances of wrongful conduct occurred and continue to occur in this county and/or because
19 Defendant conducted, and continues to conduct, business in the County of San Francisco with
20 respect to the Products.

21 14. This Court has jurisdiction over this action pursuant to California Constitution
22 Article VI, § 10, which grants the Superior Court original jurisdiction in all causes except those
23 given by statute to other trial courts. Health and Safety Code § 25249.7 allows for the enforcement
24 of violations of Proposition 65 in any Court of competent jurisdiction; therefore, this Court has
25 jurisdiction over this lawsuit.

26 15. This Court has jurisdiction over Defendant because Defendant is either a citizen of
27 the State of California, has sufficient minimum contacts with the State of California, is registered
28 with the California Secretary of State as a foreign corporation authorized to do business in the

1 State of California, and/or has otherwise purposefully availed itself of the California market. Such
2 purposeful availment has rendered the exercise of jurisdiction by California courts consistent and
3 permissible with traditional notions of fair play and substantial justice.

4 STATUTORY BACKGROUND

5 16. The people of the State of California declared in Proposition 65 their right “[t]o be
6 informed about exposures to chemicals that cause cancer, birth defects, or other reproductive
7 harm.” (Section 1(b) of Initiative Measure, Proposition 65.)

8 17. To effect this goal, Proposition 65 requires that individuals be provided with a
9 “clear and reasonable warning” before being exposed to substances listed by the State of California
10 as causing cancer or reproductive toxicity. H&S Code § 25249.6 states, in pertinent part:

11 No person in the course of doing business shall knowingly and intentionally expose any
12 individual to a chemical known to the state to cause cancer or reproductive toxicity without
13 first giving clear and reasonable warning to such individual...

14 18. An exposure to a chemical in a consumer product is one “which results from a
15 person’s acquisition, purchase, storage, consumption or other reasonably foreseeable use of a
16 consumer good, or any exposure that results from receiving a consumer service.” (27 CCR §
17 25602, para (b).) H&S Code § 25603(c) states that “a person in the course of doing business ...
18 shall provide a warning to any person to whom the product is sold or transferred unless the product
19 is packaged or labeled with a clear and reasonable warning.”

20 19. Pursuant to H&S Code § 25603.1, the warning may be provided by using one or
21 more of the following methods individually or in combination:¹

22 a. A warning that appears on a product’s label or other labeling.

23 b. Identification of the product at the retail outlet in a manner which provides
24 a warning. Identification may be through shelf labeling, signs, menus, or a combination
25 thereof.

26
27 ¹ Alternatively, a person in the course of doing business may elect to comply with the warning
28 requirements set out in the amended version of 27 CCR 25601, et.seq. as amended on August 30,
2016, and operative on August 30, 2018.

1 c. The warnings provided pursuant to subparagraphs (a) and (b) shall be
2 prominently placed upon a product's labels or other labeling or displayed at the retail outlet
3 with such conspicuousness, as compared with other words, statements, designs, or devices
4 in the label, labeling or display as to render it likely to be read and understood by an
5 ordinary individual under customary conditions of purchase or use.

6 d. A system of signs, public advertising identifying the system and toll-free
7 information services, or any other system that provides clear and reasonable warnings.

8 20. Proposition 65 provides that any "person who violates or threatens to violate" the
9 statute may be enjoined in a court of competent jurisdiction. (H&S Code § 25249.7.) The phrase
10 "threaten to violate" is defined to mean creating "a condition in which there is a substantial
11 probability that a violation will occur." (H&S Code § 25249.11(e).) Violators are liable for civil
12 penalties of up to \$2,500.00 per day for each violation of the Act (H&S Code § 25249.7) for up to
13 365 days.

14 **FACTUAL BACKGROUND**

15 21. DEHP is a harmful chemical known to the State of California to cause cancer and
16 reproductive toxicity. On January 1, 1988, the State of California listed DEHP as a chemical known
17 to the State to cause cancer and it has come under the purview of Proposition 65 regulations since
18 that time. Cal. Code Regs. Tit. 27, § 27001(c); Health & Safety Code §§ 25249.8 & 25249.10(b).
19 On October 24, 2003, the State of California listed DEHP as a chemical known to cause
20 reproductive toxicity.

21 22. The exposures that are the subject of the Notices (defined herein) result from the
22 purchase, acquisition, handling, and recommended use of the Products.

23 23. The primary route of exposure to the DEHP is through dermal absorption. Dermal
24 absorption can occur through direct skin contact when the Products are contacted with bare hands
25 or exposed skin. Exposure through ingestion will occur by touching the Products with subsequent
26 touching of the user's hand to mouth.

1 24. Defendant has marketed, distributed, offered to sell and/or sold the Products in
2 California since at least December 7, 2021. The Products continue to be distributed and sold in
3 California without the requisite warning information.

4 25. At all times relevant to this action, Defendant has knowingly and intentionally
5 exposed users of the Products to DEHP without first giving a clear and reasonable exposure
6 warning to such individuals.

7 26. As a proximate result of acts by Defendant, as a person in the course of doing
8 business within the meaning of H&S Code § 25249.11, individuals throughout the State of
9 California, including in San Francisco County, have been exposed to DEHP without a clear and
10 reasonable warning on the Products. The individuals subject to the violative exposures include
11 normal and foreseeable users and consumers that use the Products, as well as all others exposed to
12 the Products.

SATISFACTION OF NOTICE REQUIREMNTS

The Alleged Violations of Health and Safety Code § 25249.6 to Jo-Ann

13 27. Plaintiff purchased the Products from Jo-Ann. At the time of the purchases, Jo-Ann
14 did not provide a Proposition 65 exposure warning for DEHP in a manner consistent with H&S
15 Code § 25603.1 as described *supra*.

16 28. Each Product was sent to a testing laboratory to determine the phthalate content of
17 the Products.

18 29. The results of these analyses determined the Products expose users to DEHP (each,
19 a “Chemical Test Report,” collectively, the “Chemical Test Reports”).

20 30. Plaintiff provided the Chemical Test Reports and each Product to an analytical
21 chemist to determine if, based on the findings of the Chemical Test Reports and the reasonable
22 and foreseeable use of the Products, exposure to the DEHP will occur at levels that require
23 Proposition 65 warnings under the Clear and Reasonable Warnings section 25601 of Title 27 of
24 the California Code of Regulations.
25
26
27
28

1 31. Plaintiff received from the analytical chemist an exposure assessment report for
2 each Product which concluded that persons in California who use the Products will be exposed to
3 levels of DEHP that require a Proposition 65 exposure warning.

4 32. On December 7, 2021 (Webster Fine Art photo album SNAP INS - Exhibit A),
5 December 20, 2021 (Webster Fine Art photo album COVER CADDY's - Exhibit B), and February
6 8, 2022 (hildie & jo Jump Ring Mandrels - Exhibit C), Plaintiff gave notice of alleged violation of
7 Health and Safety Code § 25249.6 (collectively, the "Notices") to Defendant concerning the
8 exposure of California citizens to DEHP from use of the Products without proper warning, subject
9 to a private action to Defendant and to the California Attorney General's office and the offices of
10 the County District attorneys and City Attorneys for each city with a population greater than
11 750,000 persons wherein the herein violations allegedly occurred. See attached at Exhibits A – C
12 a true and correct copy of each Notice.

13 33. The Notices complied with all procedural requirements of Proposition 65 including
14 the attachment of a Certificate of Merit affirming that Plaintiff's counsel had consulted with at
15 least one person with relevant and appropriate expertise who reviewed relevant data regarding
16 DEHP exposure, and that counsel believed there was meritorious and reasonable cause for a private
17 action.

18 34. After receiving the Notices, and to Plaintiff's best information and belief, none of
19 the noticed appropriate public enforcement agencies have commenced and diligently prosecuted a
20 cause of action against Defendant under Proposition 65 to enforce the alleged violations which are
21 the subject of the Notices.

22 35. Plaintiff is commencing this action more than sixty (60) days from the date of each
23 Notice to Defendant, as required by law.

FIRST CAUSE OF ACTION

(By Plaintiff against Defendant for the Violation of Proposition 65)

26 36. Plaintiff hereby repeats and incorporates by reference paragraphs 1 through 35 of
27 this First Amended Complaint as though fully set forth herein.

1 37. Defendant has, at all times mentioned herein, acted as distributor, and/or retailer of
2 the Products.

3 38. Use of the Products will expose users and consumers thereof to DEHP, hazardous
4 chemicals found on the Proposition 65 list of chemicals known to be hazardous to human health.

5 39. The Products do not comply with the Proposition 65 warning requirements.

6 40. Plaintiff, based on her best information and belief, avers that at all relevant times
7 herein, and at least December 7, 2021, continuing until the present, that Defendant has continued
8 to knowingly and intentionally expose California users and consumers of the Products to DEHP
9 without providing required warnings under Proposition 65.

10 41. The exposures that are the subject of the Notices result from the purchase,
11 acquisition, handling and recommended use of the Products. The primary route of exposure to
12 DEHP is through dermal absorption. Dermal absorption of DEHP can occur through direct skin
13 contact when the Products are contacted with bare hands or exposed skin. Exposure through
14 ingestion will occur by touching the Products with subsequent touching of the user's hand to
15 mouth, or direct contact with the user's mouth.

16 42. Plaintiff, based on her best information and belief, avers that such exposures will
17 continue every day until clear and reasonable warnings are provided to purchasers and users or
18 until this known toxic chemical is removed from the Products.

19 43. Defendant has knowledge that the normal and reasonably foreseeable use of the
20 Products exposes individuals to DEHP, and Defendant intends that exposures to DEHP will occur
21 by its deliberate, non-accidental participation in the importation, distribution, sale and offering of
22 the Products to consumers in California.

23 44. Plaintiff has engaged in good faith efforts to resolve the herein claims prior to this
24 Complaint.

25 45. Pursuant to Health and Safety Code § 25249.7(b), as a consequence of the above
26 described acts, Defendant is liable for a maximum civil penalty of \$2,500 per day per violation.

27 46. Pursuant to Health and Safety Code § 25249.7(a), this Court is specifically
28 authorized to grant injunctive relief in favor of Plaintiff and against Defendant.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff demands judgment against Defendant and requests the following
3 relief:

4 A. That the court assess civil penalties against defendant in the amount of \$2,500 per
5 day for each violation for up to 365 days in accordance with Health and Safety Code §
6 25249.7(b);

7 B. That the court preliminarily and permanently enjoin Defendant, mandating
8 Proposition 65 compliant warnings on the Products;

9 C. That the court grant Plaintiff reasonable attorney’s fees and costs of suit, in the
10 amount of \$50,000.00.

11 D. That the court grant any further relief as may be just and proper.

12 Dated: February 24, 2023

BRODSKY & SMITH

13 By:  _____

14 Evan J. Smith (SBN242352)
15 Ryan P. Cardona (SBN302113)
16 9595 Wilshire Boulevard, Suite 900
17 Beverly Hills, CA 90212
18 Telephone: (877) 534-2590
19 Facsimile: (310) 247-0160

Attorneys for Plaintiff

EXHIBIT "A"

LAW OFFICES
BRODSKY & SMITH

9595 WILSHIRE BLVD., STE. 900
BEVERLY HILLS, CA 90212
877.534.2590
www.brodskysmith.com

NEW JERSEY OFFICE
1310 NORTH KINGS HIGHWAY
CHERRY HILL, NJ 08934
856.795.7250

NEW YORK OFFICE
240 MINEOLA BOULEVARD
MINEOLA, NY 11501
516.741.4977

PENNSYLVANIA OFFICE
TWO BALA PLAZA, STE. 805
BALA CYNWYD, PA 19004
610.667.6200

December 7, 2021

President/CEO Webster Fine Art, Limited c/o Timothy Myers 1006 Woodhall Lane Durham, NC 27712	President/CEO Webster Fine Art Limited 2800 Perimeter Park Drive, Suite A Morrisville, NC 27560
President/CEO Jam City Production Co., Ltd. 319 E. 162 nd Street Bronx, NY 10451	President/CEO/Owner Dr. G/Jam City Production 319 E. 162 nd Street Bronx, NY 10451-3471
Member/Manager Jo-Ann Stores, LLC c/o CT Corporation System 4400 Easton Commons Way, Suite 125 Columbus, OH 43219	Member/Manager Jo-Ann Stores, LLC c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky & Smith ("Brodsky Smith") represents Precila Dalabbo ("Dalabbo"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Dalabbo has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on

¹ The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

I. DESCRIPTION OF THE VIOLATION

1. **Enforcer:** Precila Balabbo, 285 W. 6th Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** Webster Fine Art Limited; Jam City Production Co., Ltd.; Dr. G/Jam City Production; Jo-Ann Stores, LLC;
3. **Time Period of Exposure:** Violations have been occurring since at least December 7, 2021 and are continuing to this day.
4. **Listed Chemical:** Di(2-ethylhexyl) phthalate (DEHP). DEHP is listed under Proposition 65 as a chemical known to the State to cause cancer and reproductive toxicity.
5. **Product:**

Product²	Non- Exclusive Examples of the Product
Snap-In pouch	Snap-In pouch UPC# 608807004285

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

II. PROPOSITION 65 INFORMATION

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEIHA"). For more information concerning the provisions of Proposition 65, contact OEIHA at 916.445.6900.

III. RESOLUTION OF THE CLAIMS

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Balabbo against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have

² The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Balabbo's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

these violations of California law quickly rectified, Balabbo is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

Balabbo has retained me as legal counsel in connection with this Notice. **Please direct all communications regarding this Notice to my attention at Brodsky & Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.**

Sincerely,


Evan L. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary

EXHIBIT "B"

LAW OFFICES
BRODSKY & SMITH

9595 WILSHIRE BLVD., STE. 900
BEVERLY HILLS, CA 90212
877.534.2590
www.brodskysmith.com

NEW JERSEY OFFICE
1310 NORTH KINGS HIGHWAY
CHERRY HILL, NJ 08934
856.795.7250

NEW YORK OFFICE
240 MINEOLA BOULEVARD
MINEOLA, NY 11501
516.741.4977

PENNSYLVANIA OFFICE
TWO BALA PLAZA, STE. 805
BALA CYNWYD, PA 19004
610.667.6200

December 20, 2021

President/CEO Webster Fine Art Limited 1006 Woodhall Lane Durham, NC 27712	President/CEO Webster Fine Art Limited 2800 Perimeter Park Drive, Suite A Morrisville, NC 27560
President/CEO Jam City Production Co., Ltd. 319 E. 162 nd Street Bronx, NY 10451	Member/Manager Jo-Ann Stores, LLC c/o CT Corporation System 4400 Easton Commons Way, Suite 125 Columbus, OH 43219
Member/Manager Jo-Ann Stores, LLC c/o The Corporation Trust Company 1209 Orange Street Wilmington, DE 19801	

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky & Smith ("Brodsky Smith") represents Precila Balabbo ("Balabbo"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Balabbo has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on

¹ The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

I. DESCRIPTION OF THE VIOLATION

1. **Enforcer:** Precila Balabbo, 285 W. 6th Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** Webster Fine Art Limited; Jam City Production Co., Ltd.; Jo-Ann Stores, LLC
3. **Time Period of Exposure:** Violations have been occurring since at least December 20, 2021 and are continuing to this day.
4. **Listed Chemical:** Di(2-ethylhexyl) phthalate (DEHP). DEHP is listed under Proposition 65 as a chemical known to the State to cause cancer and reproductive toxicity.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Webster Fine Art storage pouch	Webster Fine Art storage pouch UPC#608807003943

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

II. PROPOSITION 65 INFORMATION

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

III. RESOLUTION OF THE CLAIMS

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Balabbo against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have

² The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Balabbo's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

these violations of California law quickly rectified, Balabbo is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

Balabbo has retained me as legal counsel in connection with this Notice. Please direct all communications regarding this Notice to my attention at Brodsky & Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Evan J. Smith", written over a horizontal line.

Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary

EXHIBIT “C”

LAW OFFICES
BRODSKY & SMITH

9595 WILSHIRE BLVD., STE. 900
BEVERLY HILLS, CA 90212
877.534.2590
www.brodskysmith.com

NEW JERSEY OFFICE
1310 NORTH KINGS HIGHWAY
CHERRY HILL, NJ 08934
856.795.7250

NEW YORK OFFICE
240 MINEOLA BOULEVARD
MINEOLA, NY 11501
516.741.4977

PENNSYLVANIA OFFICE
TWO BALA PLAZA, STE. 805
BALA CYNWYD, PA 19004
610.667.6200

February 8, 2022

Member/Manager Jo-Ann Stores, LLC c/o CT Corporation System 4400 Easton Commons Way, Suite 125 Columbus, OH 43219	Member/Manager Jo-Ann Stores, LLC c/o The Corporation Trust Company Corporation Trust Center 1209 Orange Street Wilmington, DE 19801
Member/Manager Jo-Ann Stores, LLC c/o CT Corporation System 330 N. Brand Blvd., Suite 700 Glendale, CA 91203	

60-Day Notice of Violation of California Safe Drinking Water and Toxic Enforcement Act¹

To Whom It May Concern:

This Notice of Violation (the "Notice") is provided to you pursuant to and in compliance with California Health & Safety Code § 25249.7(d).

Brodsky & Smith ("Brodsky Smith") represents Precila Balabbo ("Balabbo"), a citizen of the State of California acting in the interest of the general public to promote awareness of exposures to toxic chemicals from use of consumer products sold in California and to improve human health and the environment by reducing hazardous substances.

With respect to the Product herein, Balabbo has identified a violation of California's Safe Drinking Water and Toxic Enforcement Act of 1986 ("Proposition 65") codified at Cal. Health & Safety Code § 25249.5, et seq. This violation has occurred and continues to occur because the alleged Violator(s) failed to provide a clear and reasonable health hazard warning in connection with the sale or use of the Product in California. Health & Safety Code § 25249.6 provides that "[n]o person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the State to cause cancer or reproductive toxicity without first providing a clear and reasonable warning to such individual ..." Without proper warnings regarding the toxic effects of exposures to the Listed Chemical resulting from use of the Product, California citizens lack the information necessary to make informed decisions on whether and/or how to eliminate (or reduce) the risk of exposure to the Listed Chemical from the reasonably foreseeable use of the Product.

I. DESCRIPTION OF THE VIOLATION

¹ The public enforcement agencies that have been served with copies of this Notice are identified in the attached distribution list accompanying the Certificate of Service.

1. **Enforcer:** Precila Balabbo, 285 W. 6th Street, Unit 209, San Pedro, CA 90731; (Ph) 818-434-4023.
2. **Alleged Violator(s):** Jo-Ann Stores, LLC
3. **Time Period of Exposure:** Violations have been occurring since at least February 8, 2022 and are continuing to this day.
4. **Listed Chemical:** Di(2-ethylhexyl) phthalate (DEHP). DEHP is listed under Proposition 65 as a chemical known to the State to cause cancer and reproductive toxicity.
5. **Product:**

Product ²	Non- Exclusive Examples of the Product
Jump ring mandrel	hildie & jo 2pc. Jump Ring Mandrel 7868337868334

6. **Description of Exposure:** The exposures that are the subject of this Notice result from the purchase, acquisition, handling and recommended use of the Product. The primary route of exposure to the Listed Chemical is through dermal absorption directly through the skin when consumers use, touch, or handle the Products. Some amount of exposure through ingestion can occur by touching the Product with subsequent touching of the user's hand to mouth. No clear and reasonable warning is provided with the Products regarding the health hazards of exposure to the Listed Chemical.

II. PROPOSITION 65 INFORMATION

For the Violators' reference, enclosed is a copy of "Proposition 65: A Summary" that has been prepared by the Office of Environmental Health Hazard Assessment ("OEHHA"). For more information concerning the provisions of Proposition 65, contact OEHHA at 916.445.6900.

III. RESOLUTION OF THE CLAIMS

Based on the allegations set forth in this Notice, Brodsky Smith intends to file a citizen enforcement lawsuit on behalf of Balabbo against the alleged Violator(s) unless such Violator(s) agree in a binding written agreement to: (1) recall Products already sold; (2) provide Proposition 65 compliant exposure warnings for Products sold in the future or reformulate the Products to eliminate exposures to the Listed Chemical; and (3) pay an appropriate civil penalty based on the factors enumerated in Health & Safety Code § 25249.7(b). Consistent with the public interest goals of Proposition 65 and the desire to have these violations of California law quickly rectified, Balabbo is interested in seeking a constructive resolution of the claims in this Notice without engaging in costly and protracted litigation.

² The specifically identified example of the Product in this Notice is to assist the recipients' investigation of, among other things, the magnitude of potential exposures to the Listed Chemical from other items within the definition of Products. This example is not intended to be an exhaustive or comprehensive identification of each specific offending Product. It is Balabbo's position that the alleged Violators are obligated to conduct a good faith investigation into other Products that may have been manufactured, distributed, sold, shipped, stored (or otherwise within the alleged Violators' custody or control) during the relevant period to ensure that requisite health hazard warnings were and are provided to California citizens prior to purchase and use.

Balabbo has retained me as legal counsel in connection with this Notice. Please direct all communications regarding this Notice to my attention at Brodsky & Smith, 9595 Wilshire Blvd., Ste. 900, Beverly Hills, CA 90212, (877) 534-2590, esmith@brodskysmith.com.

Sincerely,



Evan J. Smith

Attachments

Certificate of Merit

Certificate of Service

The Safe Drinking Water and Toxic Enforcement Action of 1986 (Proposition 65): A Summary